



State of West Virginia
Office of the Attorney General

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May 15, 2023

The Honorable Steven Dettelbach
Director
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Ave., NE
Washington, DC 20226

Dear Director Dettelbach:

As Attorney General of the State of West Virginia, I write regarding your final rule, *Factoring Criteria for Firearms with Attached "Stabilizing Braces."*¹

The final rule purports to interpret the Gun Control Act of 1968 and the National Firearms Act of 1934 to determine that approximately 4 million pistols equipped with stabilizing braces are short-barreled rifles within the meaning of those laws. As a result, the final rule directs the owners of these firearms to register them by May 31, 2023.

I am co-leading a 25 State lawsuit challenging this rule as unlawful and arbitrary and capricious.² Our coalition is confident in our legal arguments and that we will ultimately prevail in court.

However, I write regarding an issue that has arisen as a result of your testimony before the House Judiciary Committee.³ This is a pressing issue because of the impending deadline to comply with the final rule by May 31, 2023.

Specifically, during your testimony you stated: "There also can be detachment . . . That's not for us to regulate. . . We wrote the rule to make it easy to comply with. If somebody just at their home detaches the weapon from the brace and keeps them apart, they do not have to register anything. They can keep the brace. They can keep the business end of the gun."⁴

¹ 88 Fed. Reg. 6478 (Jan. 31, 2023).

² http://ago.mo.gov/docs/default-source/press-releases/atf-lawsuit.pdf?sfvrsn=702138bb_2

³ <http://www.youtube.com/watch?v=IHx6H0ALhBU>

⁴ *Id.*

Your testimony conflicts with the relevant “Option for Affected Persons” in the final rule which says that an individual must “[p]ermanently remove and dispose of, or alter, the ‘stabilizing brace’ such that it cannot be reattached.”⁵

This is a serious and time sensitive matter. Possession of an unregistered short-barreled rifle following May 31, 2023, will be a felony offense, carrying serious criminal penalties. Yet the public has conflicting statements from ATF regarding how to comply with the rule. This must be addressed right away.

Given the impending deadline at the end of this month, I write to request your immediate response to the concern raised by this letter. Specifically, please confirm whether your testimony before the House Judiciary Committee is accurate, and that ATF and DOJ will not file charges against individuals who simply detach the brace from the pistol and retain possession of both the brace and the pistol.

Thank you for your prompt consideration of this request. If you have any questions, please reach out to my office for clarification.

Sincerely,



Patrick Morrissey
West Virginia Attorney General

CC: The Honorable Jim Jordan

⁵ 88 Fed. Reg. at 6570.